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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1

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REPLY COMMENTS OF
TELE-COMMUNICATIONS ASSOCIATION

Tele-Communications Association ("TCA"), by its attorneys, respectfully submits its reply comments in the above-captioned proceeding. For the reasons stated in TCA's opening comments, the Commission should enhance its service quality monitoring program by requiring exception reporting of poorly performing wire centers and underserved areas and collecting information on data transmission quality. In addition, the record demonstrates that the productivity factor and the low-end adjustment and sharing thresholds should be lowered and that additional pricing flexibility is unwarranted at this time.

I. CONTINUED IMPROVEMENT OF THE COMMISSION'S SERVICE QUALITY MONITORING PROGRAM IS WARRANTED (Baseline Issue 7)

TCA's opening comments reported the results of a survey of its members' perceptions of LEC service quality. Although that survey revealed no overall decline in service quality since the initiation of price cap regulation, it also exposed certain danger signals confirming the need for enhanced scrutiny. For example, it showed increases in held orders, decreases in experience levels of LEC personnel, and significant disparities in service quality and availability among geographic locations.[1] TCA also noted that planned massive layoffs of LEC personnel, incipient and uneven local exchange competition, and the ever-increasing importance of reliable data communications mandate heightened vigilance regarding service quality.[2]

To this end, TCA urged the Commission to take the following steps to improve its monitoring program:

- require the quarterly ARMIS reports to list any wire center that falls within the lowest ten percent of actual performance for three consecutive quarters with respect to installation interval (broken down by service category), repair interval (also disaggregated by service category), number of outages, and trouble reports[3];

- modify the infrastructure development reports to provide for exception reporting of individual MSA and non-MSA areas that lag behind in deployment of key technologies, such as digital switching, ISDN capabilities, Signalling System 7, and fiber optic transmission[4]; and

- expand the quarterly monitoring reports to include information on availability, errored seconds, and severely errored seconds for DS-1 and DS-3 circuits.[5]

TCA also explained that close attention to service quality will become even more important as local exchange competition begins to develop.[6]

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1 TCA Comments at 1-4 and Appendix B.

2 Id. at 4, 7, 9-10.

3 Id. at 7-8.

4 Id. at 8.

5 Id. at 10-11.

6 Id. at 11-12.

The record evidences considerable support for effective service quality monitoring. For example, the Ad Hoc Telecommunications Users Committee pointed out that such monitoring serves "as an early warning system to guard against gradual network degradation."[7] MCI noted that the existence of monitoring requirements encourages the LECs to maintain or improve performance, and that the service quality reports can identify potential problems and alert the industry of the need to take action.[8] To its credit, Pacific Bell suggested that the infrastructure monitoring reports could be expanded to include switches equipped with Advanced Intelligent Network and SONET technology, and that the switching reports could include the number of switches with ATM, SMDS, frame relay, and broadband ISDN.[9] TCA endorses this recommendation.

Several LECs stated that there is no need to expand the service quality reports because service quality has remained high.[10] As TCA showed, however, acceptable levels of overall service quality should not produce a false sense of security. Although service quality generally is acceptable, the factors noted by TCA -- including geographic disparities in quality and availability, announced layoffs of almost 60,000 additional LEC personnel, and the importance of high data transmission quality

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[7] Ad Hoc Comments at 28.

[8] MCI Comments at 50.

[9] Pacific Bell Comments at 56.

[10] See, e.g., Southwestern Bell at 60, 63; USTA at 17; U S West at 48.

to the nation's economic growth -- confirm that enhancement of the current reports is necessary and appropriate.[11]

Some LECs contended that emerging competition guarantees good performance and justifies eliminating the monitoring requirements over time.[12] This assertion is troubling. First of all, as TCA, MCI, and Ad Hoc noted, the very existence of the reports helps assure that service quality will be maintained or improved. Second, monitoring requirements will be particularly important during the long and uneven transition to local exchange competition, when there is a serious risk that the LECs will focus their attention on competitive sectors. If this occurs, consumers of non-competitive services, or residents of areas that remain monopoly preserves, may experience declining quality. Third, the service quality monitoring reports serve a useful function by providing data that will assist users in making informed choices as competition emerges.[13] Fourth, as

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[11] In addition, as Ad Hoc explained, the high level of earnings under price cap regulation "suggests that there has not been the kind of pressure which would compromise service quality." Ad Hoc at 28. Accordingly, it would be imprudent to conclude that a price cap regime with less generous earnings limitations would not raise risks of impaired performance.

[12] See Lincoln Telephone Comments at 14; NYNEX Comments at 55; USTA Comments at 92.

[13] Several LECs propose that competitive access providers and competitive local exchange companies be included in the reports. See, e.g., Southwestern Bell at 63; U S West at 50; Ameritech at 20; BellSouth at 58. TCA does not object to making the reports more inclusive. At the same time, however, it is worth noting that CAPs have been willing to share performance data and internal standards, while certain LECs consider such information tantamount to a state secret.

discussed in Section II below, competition remains extremely limited in any event.

TCA also must respond to U S West's renewed attack on benchmarking. Contending that the reports "assume a uniformity among LECs which does not exist in practice," U S West urges the Commission to consider "eliminating the tracking reports in their current form ...."[14] Benchmarking, however, is an invaluable analytical tool.

TCA does not dispute that some differences in performance may stem from variations in population density, terrain, or other factors. Nonetheless, for the largest LECs, such differences should be relatively insignificant,[15] and reports that identify substantial variations in performance should trigger concern and a request for explanation. Indeed, the results of TCA's service quality survey -- which showed U S West lagging behind Pacific Bell in several key measures of service quality -- confirm the value of benchmarking in identifying possible danger signs.

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[14] U S West at 50.

[15] The largest LECs have expansive operating regions with many more similarities than differences. While one large LEC, such as U S West, may be relatively rural, and another, such as Pacific Bell, may be relatively urban, each carrier's territory contains several major cities and extensive rural areas. In addition, reports that are geographically disaggregated (as recommended by TCA) enable an "apples to apples" comparison, since they allow benchmarking of urban areas to urban areas and rural areas to rural areas.

As TCA stated in its opening comments, the Commission and its staff deserve commendation for continually improving the service quality monitoring program over the past four years and for soliciting comments regarding further enhancements. By taking the steps recommended by TCA to improve monitoring of geographic disparities and data transmission quality, the Commission can help assure that all consumers of telecommunications services receive high quality, reliable access to advanced network capabilities that facilitate economic and social development.

II. THE RECORD SHOWS THAT THE PRICE CAP PLAN SHOULD BE MODIFIED TO ASSURE REASONABLE RATES AND THAT FURTHER PRICING FLEXIBILITY IS UNWARRANTED AT THIS TIME. (Baseline Issues 3 and 4, Transition Issue 1)

As could have been predicted, the record is filled with warring studies and allegations regarding such matters as the appropriate productivity factor and the sharing and low-end adjustment thresholds. On one side, large IXCs and users contended that the productivity factor must be increased and the sharing and low-end adjustment thresholds must be recalibrated to account for lower capital costs. On the other side, the LECs generally seek a lower productivity factor and elimination of the sharing and low-end adjustment mechanisms.

Not surprisingly, TCA finds the evidence presented by the IXCs and large users more persuasive. With respect to the productivity factor, AT&T, MCI, and the Ad Hoc Telecommunications Users Committee independently conducted analyses yielding suggested productivity offsets of 5.47 to 5.9

percent.[16] Notably, these values are consistent with the 6 percent offset recently adopted by the California PUC for Pacific Bell's intrastate services. TCA believes that, at least for the BOCs, an offset in the 5 to 6 percent range accurately reflect both past productivity and the significant future efficiencies that will be triggered by additional deployment of optical fiber, digital switching, and other advanced technologies.

With respect to the sharing and low-end adjustment mechanisms, the Commission must account for the considerable decline in interest rates since the original thresholds were adopted. Today, with long-term rates between 7 and 8 percent, a low-end adjustment trigger 250 basis points higher guarantees exceptionally healthy profits rather than, as initially intended, producing a return just above the marginal cost of long-term telephone debt.[17] Similarly, a sharing threshold of 12.25 percent -- almost 500 basis points above 30-year Treasury rates -- grants the LECs magnificent returns on what is still, as discussed below, a relatively low-risk investment. Plainly, appropriate changes in the sharing and low-end adjustment thresholds are warranted.

Another point of contention in the record is the appropriate level of pricing flexibility. Claiming that the

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[16] See AT&T at 22 (5.47 percent, or 0.8 less if the Commission adopts a per-line CCL cap); MCI at 18 (5.9 percent); Ad Hoc at 21 n.20 (5.8 percent).

[17] See LEC Price Cap Order, 5 FCC Rcd 6786, 6807 (1990) (¶ 165).

access and local exchange markets are becoming quite competitive, the LECs generally seek to expand or eliminate service pricing bands and request authority to engage in contract pricing under certain circumstances.[18] In contrast, IXCs, large users, and CAPs assert that the access and local exchange markets remain tightly within the LECs' control and that existing pricing flexibility is adequate.[19]

TCA agrees with Ad Hoc that "[f]undamental competitive, marketplace, and technological conditions have not changed sufficiently since 1991 to ... relax enforcement of pricing constraints, or to lessen the need for close regulatory supervision of price cap rates."[20] As several parties point out, CAPs account for less than one percent of the access market,[21] and local exchange competition -- while it may develop to some extent over the next several years -- remains virtually nonexistent. This is particularly true for TCA members, many of which are small or medium-sized entities located outside major metropolitan areas.

TCA has always supported the minimum regulation necessary to control market power, and it absolutely believes the LECs

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[18] See generally USTA; see also Ameritech at 10; Bell Atlantic at 21-27; Pacific Bell at 26-27.

[19] See, e.g., AT&T at 19-20; MCI at 16; Ad Hoc at 17, 32-33; MFS at 37-40.

[20] Ad Hoc at 2.

[21] See Ad Hoc, Attachment A at 101; AT&T at 7-8 (noting that CAPs serve fewer than 3000 building nationwide); MCI at 64.

must be given a fair opportunity to compete. However, with the exception of certain high-capacity services in certain areas within certain cities, competition has not yet arrived. For those services in those locations, the LECs already enjoy considerable pricing flexibility. For other services and for the vast majority of locations, additional pricing flexibility remains unnecessary.

III. CONCLUSION

TCA urges the Commission to increase the sensitivity of the service quality reports to geographic disparities in quality and availability, to require disclosure of data transmission quality, and to recognize that service quality monitoring will continue to be essential during the long transition to competition in the local exchange. In addition, the Commission should increase the productivity factor, recalibrate the low-end adjustment and sharing mechanisms, and reject pleas for additional pricing flexibility. TCA commends the Commission for its comprehensive review of LEC price cap regulation and asks it to act consistently with these recommendations.

Respectfully submitted,

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I hereby certify that on this 29th day of June, 1994, I caused copies of the foregoing "Reply Comments of Tele-Communications Association" to be hand-delivered to the following:

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